for discovery by providing a response is under a duty to timely amend any prior response to an interrogatory, request for production, or request for admission if so ordered by the ALJ, or if the party learns that the response is in some material respect incomplete or incorrect and if the additional or corrective information has not otherwise been made known to all other parties during the discovery process or in writing.

(e) *Motions to compel.* (1) In connection with any discovery procedure, by motion addressed to the ALJ and upon a showing of a good faith attempt to resolve the issue without the ALJ's intervention, either party may file a motion to compel a response with respect to any objection or other failure to respond to the discovery requested or to any part thereof, or any failure to respond as specifically requested. An evasive or incomplete answer to a request for discovery is treated as a failure to answer.

(2) The motion shall describe the information sought, cite the opposing party's objection, and provide arguments supporting the motion.

(3) The opposing party may file a response to the motion, including a request for a protective order in accordance with § 26.44.

(4) Orders compelling discovery shall be issued only where such discovery will not compel the disclosure of privileged information, unduly delay the hearing, or result in prejudice to the public interest or the rights of the parties, and upon a showing of good cause.

(5) A party need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery, the party from whom discovery is sought must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the ALJ may nonetheless order discovery from such sources if the requesting party shows good cause or, when the party's refusal to provide the information sought is solely due to undue expense, the party seeking the discovery agrees to bear the expense associated with the request.

(f) *Refusal to honor discovery order.* When a party refuses to honor a discovery order, the ALJ may issue such orders in regard to the refusal as justice shall require, including the imposition of sanctions pursuant to § 26.34.

§ 26.43 Subpoenas.

(a) *General.* Upon written request of a party, the ALJ may issue a subpoena requiring the attendance of a witness at a deposition or hearing, and/or the production of documents. The request shall specify any documents to be produced and shall list the names and addresses of the witnesses.

(b) *Time of request.* A request for a subpoena in aid of discovery shall be filed in time to permit the conclusion of discovery 15 days before the date fixed for the hearing. A request for a subpoena to testify at the hearing shall be filed at least 3 days prior to the hearing, unless otherwise allowed by the ALJ for good cause shown.

(c) *Content.* The subpoena shall specify the time and place at which the witness is to appear and any documents the witness is to produce.

(d) *Service and fees.* Subpoenas shall be served, and fees and costs paid to subpoenaed witnesses, in accordance with Rule 45(b)(1) of the Federal Rules of Civil Procedure.

(e) *Motion to quash.* The individual to whom the subpoena is directed or a party may file a motion to quash the subpoena within 10 days after service, or on or before the time specified in the subpoena for compliance if it is less than 10 days after service.

§ 26.44 Protective orders.

(a) A party, a prospective witness, or a deponent may file a motion for a protective order with respect to discovery sought by an opposing party or with respect to the hearing, seeking to limit the availability or disclosure of evidence.

(b) Protective orders may be issued by an ALJ if the ALJ determines such an order is necessary to protect a party or other person from annoyance, embarrassment, oppression, or undue burden or expense because:

(1) The discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that